

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JOYCE RICHARD,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:15-cv-01931-JMS-TAB
)	
TOYOTA MOTOR CORPORATION,)	
<i>et al.</i>)	
Defendants.)	

Entry Concerning Selected Matters

The court, having considered the above action and the matters which are pending, makes the following rulings:

1. The plaintiff's motion for the Court's assistance in serving Toyota Motor Corporation ("TMC") with service of process [dkt. 12] is **granted**. Because the plaintiff is proceeding *in forma pauperis*, this ruling is mandated by Rule 4(c)(3) of the Federal Rules of Civil Procedure. See dkt. 4. This Rule provides:

At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. **The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915** or as a seaman under 28 U.S.C. § 1916.

Fed. R. Civ. P. 4(c)(3).

2. The plaintiff's motion to file waiver of service of summons [dkt. 13] is **denied as moot**. The record reflects that Toyota Motor Engineering and Manufacturing North America, Inc., have been served and has filed an answer. See dkts. 7 and 15. Similarly, Toyota Motor Sales USA, Inc. ("TMS") has appeared in this action and filed an answer. Dkt. 14. There is no suggestion that TMS contends that it received insufficient service of process.

3. The plaintiff's motion for the Court to hold personal jurisdiction over TMC [dkt. 20] is **denied as premature**. Before personal jurisdiction can be addressed TMC must be served.

4. The plaintiff's motion for an extension to time to file a reply to the defendants' answers [dkt. 21] is **denied** as unnecessary. A reply to an answer is only permitted when the court orders one. Fed. R. Civ. P. 7(a)(7). No such reply shall be ordered in this case.

5. The plaintiff's motions for clerk's entry of default [dkt. 23] and for default judgment [dkt. 24] against TMC are **denied**. TMC has not been served and is not in default.

6. TMC's motion to dismiss for insufficient service of process [dkt. 25] is **denied**. Given the fact that the plaintiff is proceeding *in forma pauperis* this court is responsible for serving TMC. Under these circumstances, this action shall not be dismissed based on the fact that the Court has yet to fulfill its obligations.

7. TMC is requested to waive formal service of process by filing the waiver form accompanying this Entry. See Fed. R. Civ. P. 4(d), 4(f) and 4(h). Although TMC is entitled to 60 days to file the waiver form, counsel for **TMC is directed to notify the court in writing, within 14 days of the date this Entry is issued, whether service is expected to be waived so that the Court can plan accordingly**. If service is not waived, the court will be required to expend judicial resources to effect proper service, an expense which could ultimately be charged to TMC consistent with Rule 4. TMC's assistance in this regard would be appreciated.

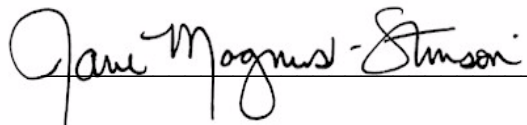
IT IS SO ORDERED.

Date: February 23, 2016

Distribution:

All Electronically Registered Counsel

JOYCE RICHARD, 2904 E. 16TH STREET, INDIANAPOLIS, IN 46201-1214


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana